

IC 8-1-33

Chapter 33. Indiana Broadband Development Program

IC 8-1-33-1

Declaration of purpose

Sec. 1. (a) The general assembly finds that certain areas of Indiana are not being adequately served with broadband services.

(b) The general assembly declares that it is a valid public purpose for the Indiana finance authority to issue bonds and notes, and loan the proceeds of those bonds and notes to the program, so that the authority may provide for financing or refinancing to broadband developers and broadband operators serving underserved areas.

As added by P.L.235-2005, SEC.105.

IC 8-1-33-2

"Affordable broadband services"

Sec. 2. As used in this chapter, "affordable broadband services" means broadband services that are available at a price reasonably comparable to the price charged for broadband services in an area that is not an underserved area.

As added by P.L.235-2005, SEC.105.

IC 8-1-33-3

"Authority"

Sec. 3. As used in this chapter, "authority" refers to the Indiana finance authority established by IC 4-4-11-4.

As added by P.L.235-2005, SEC.105.

IC 8-1-33-4

"Broadband developer"

Sec. 4. As used in this chapter, "broadband developer" means a person selected by the authority to acquire, construct, develop, and create any part of the broadband infrastructure.

As added by P.L.235-2005, SEC.105.

IC 8-1-33-5

"Broadband development program" or "program"

Sec. 5. As used in this chapter, "broadband development program" or "program" refers to the Indiana broadband development program established by section 15 of this chapter.

As added by P.L.235-2005, SEC.105.

IC 8-1-33-6

"Broadband infrastructure"

Sec. 6. As used in this chapter, "broadband infrastructure" includes all facilities, hardware, and software and other intellectual property used for and necessary to provide broadband services in underserved areas of Indiana, including voice, video, and data.

As added by P.L.235-2005, SEC.105.

IC 8-1-33-7**"Broadband operator"**

Sec. 7. As used in this chapter, "broadband operator" means a person selected by the authority to operate any part of the broadband infrastructure.

As added by P.L.235-2005, SEC.105.

IC 8-1-33-8**"Broadband services"**

Sec. 8. As used in this chapter, "broadband services" includes services, including voice, video, and data, that provide capacity for transmission of more than three hundred eighty-four (384) kilobits per second in at least one (1) direction regardless of the technology or medium used, including wireless, copper wire, fiber optic cable, or coaxial cable. If voice transmission capacity is offered in conjunction with other services using transmission of more than three hundred eighty-four (384) kilobits per second, the voice transmission capacity may be less than three hundred eighty-four (384) kilobits per second. The authority shall annually reconsider the three hundred eighty-four (384) kilobits threshold under this section with a bias toward raising the threshold in a manner consistent with technological advances.

As added by P.L.235-2005, SEC.105. Amended by P.L.152-2009, SEC.2.

IC 8-1-33-9**"Development costs"**

Sec. 9. As used in this chapter, "development costs" means the costs associated with the broadband infrastructure that have been approved by the authority and includes all the following:

- (1) The costs for the planning, acquiring, leasing, constructing and maintaining of the broadband infrastructure.
- (2) Payments for options to purchase, deposits on contracts of purchase, and payments for the purchases of properties for the broadband infrastructure.
- (3) Financing, refinancing, acquisition, demolition, construction, rehabilitation, and site development of new and existing buildings.
- (4) Carrying charges during construction.
- (5) Purchases of hardware, software, facilities, or other expenses related to the broadband infrastructure.
- (6) Legal, organizational, and marketing expenses, project manager and clerical staff salaries, office rent, and other incidental expenses.
- (7) Payment of fees for preliminary feasibility studies and advances for planning, engineering, and architectural work.
- (8) Any other costs and expenses necessary for the acquisition, construction, maintenance, and operation of all or part of the broadband infrastructure.

As added by P.L.235-2005, SEC.105.

IC 8-1-33-10**"Person"**

Sec. 10. As used in this chapter, "person" means an individual, a corporation, a rural electric membership corporation, a limited or general partnership, a joint venture, a limited liability company, or a governmental entity, including a body corporate and politic, political subdivision, municipal corporation, school, college, university, hospital, health care facility, library, or nonprofit organization. The term does not include the state.

As added by P.L.235-2005, SEC.105.

IC 8-1-33-11**"Relevant services"**

Sec. 11. (a) As used in this chapter, "relevant services" refers to:

- (1) cable service (as defined in 47 U.S.C. 522(6));
- (2) telecommunications service (as defined in 47 U.S.C. 153(46)); and
- (3) information service (as defined in 47 U.S.C. 153(20)).

(b) The term includes:

- (1) advanced services (as defined in 47 CFR 51.5);
- (2) broadband service; and
- (3) Internet Protocol enabled services;

however classified by the Federal Communications Commission.

As added by P.L.235-2005, SEC.105.

IC 8-1-33-12**"Political subdivision"**

Sec. 12. As used in this chapter, "political subdivision" has the meaning set forth in IC 36-1-2-13. The term includes any entity:

- (1) owned, operated, or controlled by a political subdivision; or
- (2) in which a political subdivision otherwise has an interest, whether direct or indirect.

As added by P.L.235-2005, SEC.105.

IC 8-1-33-13**"Underserved area"**

Sec. 13. As used in this chapter, "underserved area" means an area within Indiana that the authority determines is not being adequately served with broadband service.

As added by P.L.235-2005, SEC.105. Amended by P.L.27-2006, SEC.57.

IC 8-1-33-14**Repealed**

(Repealed by P.L.27-2006, SEC.61.)

IC 8-1-33-15**Indiana broadband development program established**

Sec. 15. (a) The Indiana broadband development program is established in order to encourage the provision of affordable

broadband services and networks that will:

- (1) ensure the long term growth of and the enhancement and delivery of services by the business, educational, medical, commercial, nonprofit, and governmental entities in underserved areas in Indiana; and
- (2) benefit residential, commercial, public, governmental, and nonprofit entities in underserved areas in Indiana.

(b) The authority shall administer the broadband development program.

As added by P.L.235-2005, SEC.105.

IC 8-1-33-16

Powers of the authority

Sec. 16. (a) The powers of the authority under this chapter include all those necessary to carry out and effectuate the purposes of this chapter, including the following:

- (1) To invest any money of the authority at the authority's discretion, in any obligations determined proper by the authority, and name and use depositories for the authority's money.
- (2) To receive and distribute state or local funding, including grants, loans, and appropriations.
- (3) To make loans or grants to broadband developers and broadband operators that will acquire, construct, maintain, and operate all or part of the broadband infrastructure serving underserved areas.
- (4) To provide operating assistance to make broadband services more affordable to broadband developers, broadband operators, and broadband customers in underserved areas, in conjunction with broadband infrastructure financed by the authority.
- (5) To set construction, operation, and financing standards for the broadband infrastructure in connection with authority financing and to provide for inspections to determine compliance with those standards.
- (6) To investigate, evaluate, and assess the current broadband infrastructure and the future broadband infrastructure needs of Indiana and to encourage and participate in aggregation strategies for the broadband services of all public entities and nonprofit corporations in Indiana to maximize the interconnectivity and efficiencies of the broadband infrastructure.
- (7) To make expenditures necessary to carry out the authority's duties under this chapter, including paying the authority's operating expenses.

(b) As part of an application for financing under this chapter, a broadband developer or broadband operator must file with the authority a participation plan for small and minority owned businesses and a communitywide outreach plan to educate the public with respect to the availability of broadband services. The authority may not approve an application unless a plan is submitted under this

subsection.

As added by P.L.235-2005, SEC.105.